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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN ALASKA
ENVIRONMENTAL COUNCIL, *et al.*,

Plaintiffs,

v.

DEBRA HAALAND, in her official
capacity, *et al.*,

Defendants,

and

AMBLER METALS, LLC, *et al.*,

Intervenor-Defendants.

Case No. 3:20-cv-00187-SLG

DEFENDANTS' MOTION FOR STAY

Defendants in *Northern Alaska Environmental Center*, Case No. 3:20-cv-00187-SLG, and contemporaneously herewith in *Alatna Village Council v. Padgett*, Case No. 3:20-cv-00253-SLG, hereby move for a stay of proceedings in both cases. Under the present schedule, Plaintiffs' opening merits brief is due on September 29, 2021. *See* ECF No. 80.

Defendants request a stay of all proceedings in this action for a period of 60 days up to and including November 29, 2021. This stay is necessary to accommodate review of this matter by officials within the United States Department of the Interior who have engaged in various discussions with multiple parties involving this matter and in government-to-government consultations with tribal entities at the end of July and who are in the process of scheduling further requested government-to-government consultations in October. The Department needs additional time to fully and fairly consider matters being brought to its attention during these discussions and consultations prior to further proceedings in this case.

Courts have broad discretion to stay proceedings and to defer judicial review in the interest of justice and efficiency. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936), *quoted in Air Line Pilots Ass'n v. Miller*, 523 U.S. 866, 879 n.6 (1998); *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962); *see also Am. Petroleum Inst. v. EPA*, 683 F.3d 382, 388 (D.C. Cir. 2012) (premature and unnecessary

judicial review “would hardly be sound stewardship of judicial resources”). It will best conserve the resources of the parties and the Court to accommodate these developments before allowing merits briefing to proceed on the current schedule. Counsel will submit a status report or motion(s) on or before November 29, 2021, proposing a revised schedule for briefing or further proceedings.

Undersigned counsel have conferred with counsel for Plaintiffs and Intervenor-Defendants regarding this motion. Plaintiffs do not oppose this stay. Intervenor-Defendant State of Alaska has indicated it takes no position. Intervenor-Defendant NANA Regional Corporation, Inc. (“NANA”) provides its conditional non-opposition to the requested stay based on: (i) Defendants’ recognition that NANA is included among the Tribal entities empowered to seek consultation with the federal government on a government-to government basis pursuant to E.O. 13175 (Pub. L. 108-199, 118 Stat. 452, as amended by Pub. L. 108-447, 118 Stat. 3267), which requires federal agencies to consult with Alaska Native Corporations on the same basis as federally recognized Indian Tribes; and, (ii) the Court’s order that NANA be expressly included in any discussions with Plaintiffs that are now occurring or that will soon ensue because NANA is an Intervenor-Defendant with full rights of participation, and as an indigenous landowner in the project region and representative of its Alaska Native shareholders. Defendants acknowledge NANA’s first condition, but oppose its second condition, which far exceeds applicable law and the scope of the requested stay. Intervenor-Defendants Ambler Metals, Inc. and Alaska Industrial Development and Export Authority have each indicated, in light of the fact that they were informed of the motion less than twenty-four

hours before its filing, that they have not had sufficient time to formulate a position and will determine whether to file a response.

In the event that the Court does not grant the stay, the parties will promptly confer and within five federal business days of the Court's ruling will submit a revised briefing schedule to the Court.

DATED: September 28, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2021, a copy of the foregoing was served by electronic means on all counsel of record by the Court's CM/ECF system.

/s/ Paul A. Turcke
Paul A. Turcke